

Baker & Hostetler LLP

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*Attorneys for Irving H. Picard, Trustee
for the substantively consolidated SIPA Liquidation
of Bernard L. Madoff Investment Securities LLC
and the estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

HSBC BANK PLC, et al.,

Defendants.

Adv. Pro. No. 09-01364 (SMB)

**[PROPOSED] ORDER GRANTING THE TRUSTEE'S
CROSS-MOTION FOR SEVERANCE AND FOR
LEAVE TO AMEND THE COMPLAINT**

On the cross-motion of Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities, LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa-III, and the substantively consolidated chapter 7 estate of Bernard L. Madoff, by and through his counsel, Baker & Hostetler LLP, seeking entry of an order:

- (i) pursuant to Rule 21 of the Federal Rules of Civil Procedure, as incorporated by Rule 7021 of the Federal Rules of Bankruptcy Procedure, severing the Trustee’s claims against Alpha Prime Fund Ltd. (“Alpha Prime”) from his claims against the remaining defendants; and
- (ii) pursuant to Rule 15 of the Federal Rules of Civil Procedure, as incorporated by Rule 7015 of the Federal Rules of Bankruptcy Procedure, granting the Trustee leave to file a Second Amended Complaint against Alpha Prime; and

the Court having considered the parties’ submissions in support of and in opposition to (if any) the Cross-Motion; and the proceedings before the Court; and due notice of the Cross-Motion having been given, and it appearing that no other or further notice need be given; and the Court having determined that the legal and factual bases set forth in the Cross-Motion establish just cause for the relief granted herein; and after due deliberation, it is hereby

ORDERED THAT:

1. The Cross-Motion for Severance and for Leave to Amend is hereby **GRANTED**;
2. The claims against Alpha Prime are hereby severed from the claims against the remaining defendants in this matter; and

3. The Trustee may file his Second Amended Complaint against Alpha Prime, in substantially the form attached to the Declaration of Oren J. Warshavsky within seven days of the date of this Order.

Dated: _____, 2019
New York, New York.

HONORABLE STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE